



International Dairy Foods Association
Milk Industry Foundation
National Cheese Institute
International Ice Cream Association

Mr. John Mengel
Chief Economist
USDA/AMS/Dairy Programs
Office of the Chief Economist
STOP 0229 - Room 2753
1400 Independence Ave., SW
Washington, DC 20250-0229

Re: Doc. #AMS-07-0047; DA-06-07; Dairy Product Mandatory Reporting

Dear Mr. Mengel,

The International Dairy Foods Association (IDFA) offers the following comments in response to the Interim Final Rule on Dairy Product Mandatory Reporting published at Fed. Reg. Vol. 72, No. 127 (Tuesday, July 3, 2007), pp 36341-45.

IDFA has long supported mandatory reporting and auditing with respect to data collected by USDA for the Dairy Products Prices Report. This is the only data collected by USDA which is then used in formulas which mandate minimum prices which must be paid by a processing plant of any kind for any agricultural commodity. As noted in the interim final rule, the Dairy Market Enhancement Act of 2000 and certain provisions of the Farm Security and Rural Investment Act of 2002 require doing so to insure that the data collected is both timely and accurate.

IDFA is pleased that USDA has enacted the provisions on an interim basis while still providing the industry the opportunity to comment. We urge the Department to move to implement a final rule as expeditiously as possible.

While the interim final rule outlines the role of the Agricultural Marketing Service (AMS) in verifying the price information submitted by various dairy product manufacturing plants, IDFA urges the Department in addition to move the responsibility for the collection of the survey data from the National Agricultural Statistics Service (NASS) to AMS. This would bring all program responsibility for this data collection under one agency.

In using this data for regulated minimum prices, it is critical that the data be published as soon as possible. Using the NASS data collection system relies on collecting data first at the state level and then aggregating the data in the national office. This extra data collection step requires time which lengthens the period between the market conditions represented by the data and the time the data is published and available. In addition, IDFA members with questions about the survey are directed to contact NASS staff in the state offices, and several

members report receiving different interpretations regarding what should be reported from different state NASS offices. Given the few eligible reporting entities, this data should be directly collected in a central location, both in order to improve the timeliness of reporting the data and to eliminate any conflicting information received from different state NASS offices. While IDFA believes that the Secretary has the authority to make such an administrative change at any time, we urge that this be done no later than implementation of a final rule.

Furthermore, IDFA urges the Department to improve even more the timeliness of the data collection and reporting by requiring that the various dairy product manufacturing plants report the data to AMS electronically. This would permit the Department to analyze and summarize the survey data more quickly and publish the data sooner; currently, data is typically published on Friday for the previous week-ending Saturday. IDFA urges the Department to include in a final rule provisions requiring electronic reporting, and to then implement a plan to analyze, summarize and publish the data sooner every week.

The interim final rule notes that AMS plans, during the first year, to “visit all of the entities eligible to file reports at least once” for the purpose of reviewing “applicable sales transaction record for a sample of reporting periods during the year,” and also “will check for eligible sales transactions that were not reported to NASS.” While IDFA supports this initial year effort, we urge AMS to follow up with quarterly visits for at least one year with any entity which is found to have incorrectly reported data or which failed to include any eligible sales transaction. This is the minimum requirement to ensure that the data used in the federal order price formulas are accurate.

With respect to eligible sales transactions, IDFA urges the Department to specifically exclude any sales transaction of organic dairy products which would otherwise be eligible for inclusion in the Dairy Products Prices Survey. The pricing mechanisms and price levels for organic products are very different than non-organic dairy products, and the inclusion of organic product sales transactions would result in a survey price which is not representative of the market for non-organic products and farm milk.

In the interim final rule, “AMS specifically invites comments on the prevalence of the use of forward contracts and whether they need to be addressed in some way under the mandatory program.” IDFA most strongly supports the instructions with respect to this for the Dairy Products Prices Survey which have been in place since the implementation of federal order reform in January 2000. As noted in the interim final rule, reporting entities are to exclude “sales in which the selling price was set (not adjusted) 30 or more days before the transaction was completed.”

IDFA urges the Department to distinguish between the terms “forward contract” and “forward priced.” In the context of whether or not a sales transaction is eligible for inclusion in the Dairy Products Prices Survey, a forward contract may contain a formula for determining the sales price which may be based on a reference market price; this is not a forward priced transaction. A forward priced transaction is one in which the explicit price, without a formula using a reference market price, is stated in the forward contract. Therefore, a forward contract may or may not contain a forward price.

The Dairy Products Prices Survey data is designed to reflect the current market price based on the current market environment. The inclusion of sales in which the price was set more than 30 days in advance of the actual transaction would mean including survey data based on expectations of today's market environment, not the actual current market environment itself. Therefore, IDFA strongly supports excluding any sales transaction in which a forward price has been set more than 30 days in advance of the sale.

However, we note that AMS seeks information on the prevalence of the use of forward contracts, which we assume refers to the prevalence of forward priced sales. IDFA urges the Department, as part of the verification visits to reporting entities, to annually survey the prevalence of forward priced sales transactions, and to publish that information.

Finally, IDFA notes that the price reporting specifications which appear in the interim final rule are consistent with the instructions for the Dairy Product Prices Survey which have been used since implementation of federal order reform and the concurrent adoption of the use of product price formulas for federal order minimum prices. IDFA is concerned that significant changes to those specifications in any final rule could substantially change the nature of the wholesale dairy product price series used in those formulas. IDFA notes that the Department recently concluded a hearing to consider proposals to amend all factors of the product price formulas, and we believe that, in general, any significant change should be addressed as part of a federal order hearing to consider the impacts of such changes on federal order minimum prices.

Respectfully Submitted,



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The International Dairy Foods Association (IDFA), Washington, DC, represents the nation's dairy manufacturing and marketing industries and their suppliers, with a membership of 530 companies representing a \$90-billion a year industry. IDFA is composed of three constituent organizations: Milk Industry Foundation (MIF) National Cheese Institute (NCI), and International Ice Cream Association (IICA). IDFA's 220 dairy processing members run more than 600 plant operations, and range from large multi-national organizations to single-plant companies. Together they represent more than 85% of the milk, cultured products, cheese and frozen desserts produced and marketed in the United States. IDFA can be found online at www.idfa.org.